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Legal Aid Ontario

Business Plan 2006-2007

**Healthy Justice
Needs a Healthy
Legal Aid System**

**Sustainability
Is Within Reach**



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Message from the Chair

Legal Aid Ontario is an integral part of the justice system, a key component of Ontario's social services and an institution which is part of the foundation of a healthy democracy. People come to us daily for advice, information, referral and representation in courts and tribunals across the province.

Legal Aid Ontario is also at a crossroads. We have maximized our efficiencies and have won awards for the implementation of technology which has improved our customer service and business operations. Yet, increases in the cost of providing services, and demands for our services which arise from policy choices beyond our control mean that our current funding has reached the point where it is no longer adequate to meet existing service requirements. Our role as part of a healthy and just society means that more must be done.

Our constituencies include not only individuals, but also organizations dedicated to public service, including government, professional and community organizations. We have roots in communities across the province and are well known to anyone with an interest in improving the lives of those facing severe economic and legal disadvantages. Our clients are among Ontario's most vulnerable citizens. They include homeless people, youth, women who have experienced violence, and individuals

with mental health issues. Ontarians can be assured that our justice system is worthy of its international reputation.

It is widely acknowledged that the health of the individual and of society is determined in large part by socio-economic status. Access to legal services is linked to health and security of the individual and to communities as a whole. Those who are poor lack access to sufficient housing, nutrition, and face social dislocation. Our services act as a buffer between individuals and the harsh effects of poverty, both by providing direct service and by referring people to the most appropriate social and community services.

Our services can ensure positive outcomes for individuals, and in turn for their children. A healthy legal aid system is therefore both vital to the clients who directly benefit from our services, and to all of society. In this year's Business Plan, we outline our services and the causes behind the increased demands and costs of those services. We discuss the measures we have taken to meet those demands and balance our budget, as well as the additional pressures we will be facing in the next few years. Finally, we call on the federal and provincial governments to help build a sustainable legal aid system for the future.

What Do We Do?

Providing Accessible, High Quality Services

"Ontarians deserve a system that delivers justice, is readily accessible, is well understood, and earns public confidence."

The Honourable Michael Bryant
Attorney General of Ontario

"Along with the socio-economic and political inequalities, social exclusion is also characterized by processes of group or individual isolation within and from such key Canadian societal institutions as the school system, the criminal justice system and the health care system, as well as spatial isolation or neighbourhood segregation. These engender experiences of social and economic vulnerability, powerlessness, voicelessness, a lack of recognition and sense of belonging, limited options, diminished life chances, despair, opting out, suicidal tendencies and, increasingly, community or neighbourhood violence"

Social Determinants of Health: Canadian Perspectives (Dennis Raphael, 2004)

Ontario has one of the most sophisticated and comprehensive networks of legal aid services in Canada, and in the world. Over the past two years government and justice representatives from places as far as China, Bangladesh, Jamaica and Australia have come to learn from us how to efficiently deliver accessible and high quality access to justice.

Summary of Services Provided 2004/2005

	2004-05
Legal Aid Certificates (criminal, family, refugee, civil)	105,662
Duty counsel services - people assisted	715,208
Community legal clinics - case files*	15,964
Legal/advice brief services by clinics*	132,662
Referrals by clinics*	45,344
	1,014,840

"Shortly after receiving the news about being granted bail and a new trial, I thought about you. Thank you so much for granting me legal aid. For years, I wrote letters from prison and no one believed my story. I'm grateful my lawyer did, he was the most important one who worked on my case; finally, justice was starting to unravel. This was one of the most difficult times of my life and I want to extend my gratitude for helping me and others who feel trapped by the injustices in our system."

Rodney, Kingston

Serving the poor and working poor

Every year, more than one million of the province's poorest and most vulnerable people turn to Legal Aid Ontario (LAO) for access to valuable legal assistance.

Legal Aid Ontario assists more than 4,000 low-income people daily, who would not otherwise receive legal assistance when their homes, families, incomes or freedom are in jeopardy.

While criminal issues have traditionally formed the bulk of legal aid work, Legal Aid Ontario provides essential services to women escaping abuse, children, people with mental illness, Aboriginal people and homeless people, among others. Three recent examples illustrate the breadth and importance of the legal aid services available to low-income Ontarians.

Recently, a single mother with three children, living in public housing had fallen behind in her rent due to a life-threatening illness. Facing eviction and the break-up of her family, she was seeking time to repay her back rent. Thanks to the work of a community legal clinic, she got the help she needed and kept her family together.

Elsewhere in the province, two parents living in public housing had their children taken from their home by the Children's Aid Society. With Legal Aid's help, they are getting representation to present their case.

Another case tells the story of an immigrant woman who was facing severe abuse to the point that her husband forced her to drink bleach. She had no access to money, very little comprehension of English and no knowledge of the legal system. While she managed to escape, her husband took their son and refused to let the mother see him. After three years, assisted by Legal Aid Ontario and others in the community who worked together, the mother was awarded full custody of her son.

Legal Aid Ontario operates as one of the most successful and effective public-private partnerships. Lawyers agree to do legal aid work at rates which are lower than market value. Legal Aid Ontario ensures clients get service, without carrying many of the associated costs of overhead and staff. Lawyers must pay all their own expenses and overhead.

Responding to family breakdown

Few things are as emotionally charged as family breakdown. And there is nothing more frightening than being poor, alone, and facing the prospect of losing one's children. Legal Aid Ontario acts on the front lines on these cases. The majority of legal aid clients in family matters are women with low incomes. Many of them have faced domestic violence; others are facing numerous problems that will eventually lead to the involvement of the Children's Aid Society.

Profile of Family Law Clients

- 75 % are women
- 35 % are single mothers
- 56 % are on welfare
- 30 % live in public housing

Keeping courtrooms running

Without duty counsel, the criminal and family courts across the province would grind to a halt as a result of a dramatic increase in the number of unrepresented people struggling to navigate through the court system on their own.

Duty counsel, or court services lawyers, assist 2,700 people every day and provide services similar to a hospital emergency room supervisor. They quickly assess the situation, advise clients of the options available, help to resolve the issue or, if necessary, refer the client to other services.

Last year, more than 650,000 people received assistance from over 1,400 private lawyers who are paid on a per diem basis or from one of over 100 staff duty counsel employed by Legal Aid Ontario.

Services are available in more than 70 provincial courthouses and over 30 fly-in locations across Ontario. In addition, duty counsel serve clients with Court of Appeal matters, and at the Ontario Rental Housing Tribunal.

Assisting with the bare necessities

We are committed to building safe and strong communities, and a community is only as safe as the homes within it, and a community is only as strong as the support it offers its most vulnerable citizens.

The Honourable Dalton McGuinty
Premier of Ontario

Community legal clinics are often the first point of call for a person in distress. Over 200,000 people per year receive essential services from one of 62 community legal clinics across the province. Clinics serve people with disabilities, sole support parents, seniors, new immigrants and many others on matters such as housing and income support. Through a combination of casework and collective community action, clinics help people avoid eviction and access income benefits they are entitled to. With their basic needs met, low-income people are better able to participate in their communities. Clinics solve problems before they escalate into more costly problems. Tribunals clearly recognize the quality work that clinics do. 80 per cent of clients represented by clinics succeed in their Ontario Disability Support appeals.

"We had to move out of our apartment because it had mould. My kids were getting sick and I was having allergic reactions. We gave our landlord notice and moved to our new place. Then, we got a notice from the old landlord asking for the last month's rent. I heard about the community legal aid clinic in our area so I went there to see if they could help me. My lawyer was wonderful, he explained everything, called me when the court date came up and helped me fill out all the paperwork. I did as much as I could and then he did the rest."

Joanne, St. Catharines

In addition to general service clinics, Legal Aid Ontario also supports 17 clinics that focus on either specific communities, such as seniors and various cultural communities, or on a specific area of law, such as workplace injury. These clinics also act as expert resources to other clinics, community agencies, private bar lawyers, provincial members of parliament and community agencies.

Breaking new ground for low-income people

- Clinics convinced the government to promise changes to regulations that would have prevented social assistance recipients who make their homes more energy efficient from benefiting from government-sponsored rebates.
- Clinics worked to convince the Workers Safety and Insurance Board to stop unfair reductions to the wage loss benefits of permanently injured workers that resulted from incorrect determinations that these workers could simultaneously receive both employment income and Canada Pension Plan Disability Benefits.
- Clinics in Ottawa informed tenants of a 17-storey apartment building of their rights when their building was evacuated for several months as a result of a fire. The clinics then assisted those who found alternative housing (most of which was in social housing units) to get out of their leases with the landlord.

Engaging citizens - community development

- A clinic worked with homeless and street youth to develop easy to read pocket reference cards with contact information for various emergency and social services. The artwork for the cards was done by a street youth, who is now considering paid employment in the arts and has a portfolio for the first time.
- Clinics successfully advocated for access to health, employment and parental benefits for hundreds of agricultural migrant workers. These seasonal workers work long hours for minimum wage with no overtime pay and previously did not receive benefits they were entitled to. This victory has had a dramatic impact on the health and well being of migrant workers and their families.

Working towards positive change - law reform

- Clinics helped to prepare a submission on Tenant Protection Act reform and worked with other clinics in making presentations at "town hall" meetings on tenant law reform.
- Clinics had a significant impact on the recommendations contained in the "Matthews Report" on social assistance. One of the recommendations from the report that was implemented was the elimination of the first step in a two-step approval process, which posed a significant barrier to those applying for Ontario Works assistance.
- Lawyers from the Advocacy Centre for the Elderly, and ARCH Disability Law Centre appeared at the Supreme Court of Canada, successfully arguing that decisions about the placement of an adult in a care facility should focus on the welfare of the adult. This case ensured that the best interests of adults in care will be the guiding principle in making decisions on their placement.

Providing information - advice and public legal education

Presenting a seminar at a local community centre on women's rights to new Canadians; helping to complete court papers at a Family Law Information Centre (FLIC); talking to young Aboriginal people recently relocated to attend university about their rights as tenants; or describing what a living will is to a group of seniors in a residential care facility. These are typical examples of the services provided everyday by members of the private bar, LAO staff lawyers, community legal clinic lawyers and community legal workers across the province. In 2004, community legal clinics opened 3,359 public legal education files.

Student legal aid - investing in tomorrow

Student Legal Aid Services Societies (SLASS) exist in all six Ontario law schools, giving students valuable experience and building a future pool of legal aid lawyers. Students, under the supervision of lawyers, fill service gaps that Legal Aid Ontario cannot afford to cover, such as representation at Small Claims Court, on landlord and tenant matters, workers' rights matters, minor criminal and provincial offences matters and immigration cases.

"The best acts are ones from the heart. This story started when I was helping my aunt process her immigration papers in Mississauga. I was unfamiliar with all the paperwork, and quite frankly felt defeated. So we tried seeking out immigration consultants for help. However, their fees were too much, and my aunt couldn't afford them. At one point, we sat in Square One mall crying because my aunt would be sent back to India. Then a young man walked up and asked if he could help us. He was a law student from York, and he worked at one of their legal clinics, which also specialized in immigration matters. We took the long bus ride to York's campus and our troubles were solved. Another bonus was that their services were free. I know that many people in society look down upon lawyers as money grabbing types, but this experience changed my view at least. One stranger's gesture changed my family's nightmare. Thank you for your help."

*Jade Singh, Brampton,
Published in the Toronto Star, August 17, 2005.*

Why Are Service Demands and Costs Rising?

Legal Aid Ontario is facing external pressures and increasing demands that are outside of its control. This fact was confirmed in The Ministry of the Attorney General's commissioned report on LAO's client legal services. Some of the major pressures are as follows:

Increasing demand for child protection legal assistance

With increased funding to children's aid societies, and changes to the *Child and Family Services Act*, there has been a marked increase in demand for child protection legal assistance. Over the past five years, there has been an increase of 24.8% in child protection proceedings brought before the courts while Legal Aid Ontario's funding has not been increased.

Rising demand for poverty law services

The main cost drivers in the community legal clinic system are the federal and provincial governments' income support systems (53% of cases opened from 2002 to 2004) and housing (24% of caseload during the same period). The Ontario Disability Support Program (ODSP) alone constitutes 35% of cases. Internal ODSP procedures force more frequent and costly medical reports.

The Social Benefits Tribunal routinely overturns decisions at the administrative level of the Disability Adjudication Unit (in fact, where an appellant has legal aid representation, 80% of appellants win their case), but not until clinics have been forced to submit more frequent and costly reports on their clients' behalf. This significantly drives up the costs in providing clinic law services.

According to the Social Benefits Tribunal, 40% of appellants come before the tribunal without representation, which indicates that there is a large unmet need in the community.

Increasing numbers of criminal charges

The Ontario government recently announced that 1,000 additional police officers would be hired. More officers means more criminal charges. For every nine criminal charges laid, one accused person requires a legal aid certificate.

Every 9 criminal charges =
1 new legal aid certificate = \$1,625



Defending multiple accused people

Mega-trials, such as large scale prosecutions on gang-related charges are a significant pressure on resources. Legal Aid Ontario effectively manages these cases to keep costs at a minimum, but big cases are unavoidably expensive. These large prosecutions seem poised to become more commonplace, and will result in a significant impact on Legal Aid Ontario's budget.

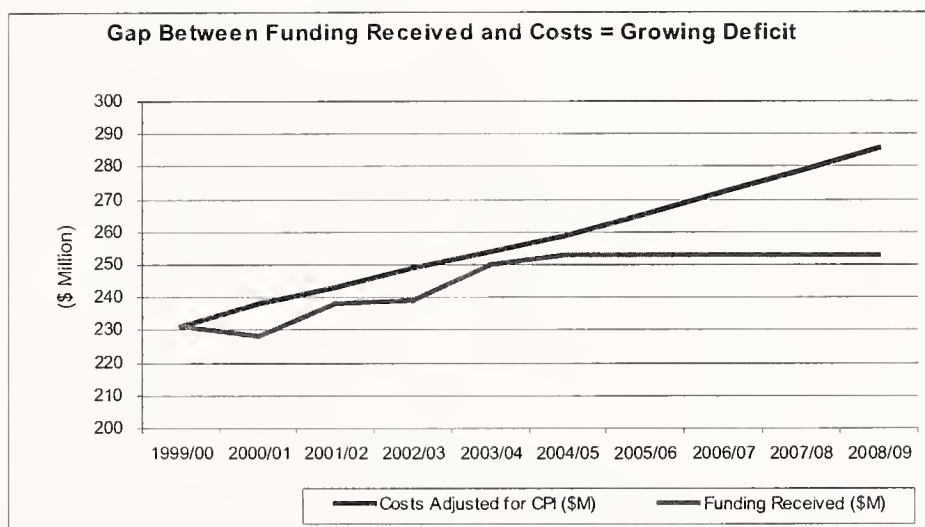
Absorbing increased business costs

The price of office space and utilities continues to rise. The Consumer Price Index has increased by an average of 2.3% each year since 1999, while Legal Aid Ontario's budget has been flat-lined. Pay equity and other salary pressures also take their toll, despite the fact that staff pay increases in the past five years have been very modest following a long period in which salaries remained frozen. Legal Aid Ontario has had to absorb these increases without a corresponding increase in funding.

How Have We Absorbed the Increases?

Managing the gap - the structural deficit

Since 1999, Legal Aid Ontario has absorbed increased demands and costs for services, and more than \$27 million in inflationary costs. Operating costs have gone up and demand for legal aid services continues to increase every year. With little change in base funding for seven years, Legal Aid Ontario is operating with a structural deficit.



Structural Deficit:

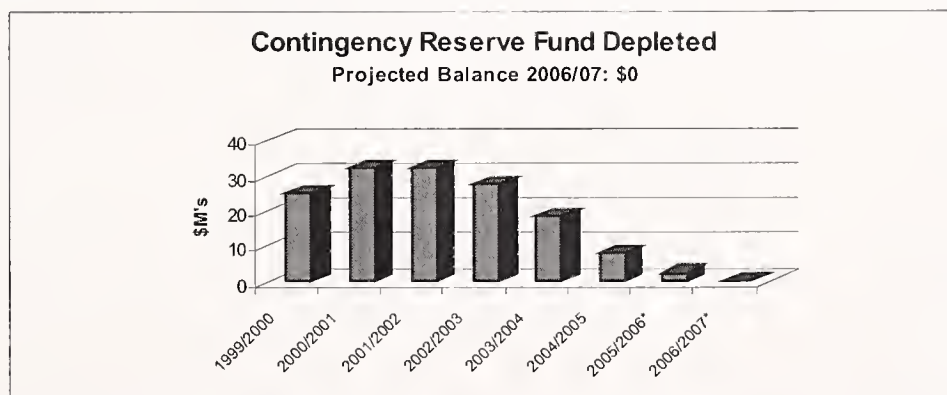
The gap between the amount of funding received and the amount of program spending.

Estimated deficit for 2006/07 = \$10 - 12 million

So far, we have absorbed the additional cost of services in two key ways: by depleting our reserve funds; and by maximizing efficiency.

Depleting reserve funds

- When Legal Aid Ontario was created, the Ontario government was concerned with ensuring that Legal Aid had the ability to meet unexpected increases in demand. As a publicly-funded agency, this was essential to maintaining public confidence in the operation of a critical piece of the administration of justice.
- A contingency reserve fund was set up to meet the needs of increased costs.
- Until this year, Legal Aid Ontario was instructed by the Ontario government to use its savings in the Contingency Reserve Fund to pay for increased operating costs such as the increases to hourly rates paid to lawyers.



- LAO's savings will be depleted by next year. There is no longer a safety net for the increased operating costs it continues to face.

Increasing cost efficiency

Certificate management program – managing responsibly

To manage the increase in the number of criminal charges across the province, and the increasing number of family law matters, Legal Aid Ontario has set strict limits for both the cost and number of certificates that can be issued. While this program has helped to control costs, it has meant that more people each year are denied service.

The number of people with family law problems refused legal aid climbed by 26 per cent in just over a year, with over one third of applicants, many of whom are financially eligible for our services, turned away. In criminal matters, certificates are available only where there is a likelihood of jail. Legal Aid Ontario no longer provides full representation in cases where livelihood or economic loss is threatened. The overall rate of refusals has climbed by 31 per cent since July 2004.

Shift to duty counsel – keeping the court system running

One of the ways that Legal Aid Ontario has kept certificate expenses as low as possible in the face of increasing demands is to shift, in appropriate situations, more services previously performed by certificate lawyers to duty counsel. Assistance by duty counsel costs less than legal aid certificates, and clients are assisted more quickly.

Guilty pleas, bail hearings and variation hearings in family court are now routinely performed by duty counsel. As an example of the savings that this represents, in 2003, Legal Aid Ontario issued 4,477 certificates for variation hearings at an average cost of \$1,046 per certificate. The average cost of a duty counsel assist per client is only \$38. Shifting variation hearings from certificate lawyers to duty counsel results in significant cost savings.

Since 1999, the number of criminal matters heard in the Ontario Court of Justice has increased by 38.6%. However, in the same time span, Legal Aid Ontario's expenditures on criminal certificates have only increased by 20.8%.

At this point Legal Aid Ontario has shifted services as far as it can while still providing the most appropriate high quality service. Without sustainable funding, it will have to resort to cuts to certificate services.

Big Case Management Program – maximizing efficiencies

To control costs and maximize efficiency, Legal Aid Ontario introduced the Big Case Management (BCM) Program. BCM works with private lawyers dealing with complex cases to plan budgets for every stage of a proceeding, and coordinate efforts among lawyers, to avoid duplication of work.

Big cases are a costly drain on the certificate system. However, they are important not only to the individuals being represented, but to the development of criminal

jurisprudence and a true system of justice. As part of its Big Case Management Program, LAO has funded the defence of a number of high profile wrongly convicted individuals, and has been instrumental in criminal law reform that has resulted from these wrongful convictions.

The program has resulted in significant cost avoidance since 2001-02. Since that time, there has been a 15% increase in criminal certificate costs. However, criminal Big Case Management costs per case have not increased. This is a testament to the program's efforts towards managing cases as efficiently as possible, and to budget. While maximizing efficiency, big cases are unavoidably expensive. Although big cases account for only 1.7% of the criminal certificates issued, these cases represent 18.9% of criminal certificate costs.

Family Settlement Conferences – avoiding costly litigation

Settlement conferences reduce the amount of court time spent on family matters and result in speedier case resolutions. They are one way that Legal Aid Ontario provides more efficient services to clients, and helps to ease court backlog and the increasing demand for family law assistance. The 941 settlement conferences conducted in the past year cost \$138,651, and have resulted in an estimated savings of \$1,637,000 by avoiding litigation costs that would have otherwise been incurred.

Correctional Law Project – assisting with inmate appeals

In 2002, Legal Aid Ontario funded a three-year pilot project through the Correctional Law Project in Kingston for the delivery of legal services before the Court of Appeal for Ontario. This project has significantly reduced wasted time and expense, and delays in inmate appeals. Hearing lengths were significantly reduced, and unnecessary hearings were eliminated. These efficiencies resulted in bonus savings to the province, since Court of Appeal costs were similarly reduced as a result.

Effective and efficient management – finding efficiencies

LAO has a modern management structure in place in order to tightly manage resources and services.

- LAO has integrated three outdated computer systems into one through the implementation of PeopleSoft® software province-wide.
- *Legal Aid Online* is a new online billing system which allows lawyers to submit accounts online. The system reduces administration time and cost to process accounts, while improving services to lawyers.
- Legal Aid Ontario has restructured several departments in order to maximize efficiency by streamlining supports and services.

What Does It Mean for the Future?

Clients may not be able to find a lawyer

It is increasingly difficult to attract and retain private lawyers willing to take on legal aid work. Low hourly tariff rates, and the “greying” of the small firm and sole practitioner bar is resulting in the retirement of legal aid lawyers. At least 60 per cent of lawyers doing legal aid work have ten or more years of experience. At the same time, very few young lawyers are entering legal aid work to replenish the pool of certificate lawyers.

For child protection matters, Legal Aid Ontario is already facing a severe shortage of lawyers willing to take on the work. Working on child protection cases involves time consuming paperwork, leading to more significant overhead costs. The work is both complicated and emotionally draining. Lawyers in smaller areas have taken on as many cases as they can handle, and they report they are quickly burning out. The rate of unacknowledged certificates – that is, cases where the client has not been able to find a lawyer – for child protection work are the highest of all types of legal aid work, and the number continues to climb.

This public/private partnership, which is the cornerstone of Legal Aid Ontario’s service delivery, is by far the most affordable and efficient way to perform legal aid work. Legal Aid Ontario is exploring ways of encouraging lawyers to do legal aid work, and to keep them on board once they begin.

Legal Aid Ontario cannot do this without adequate funding. Legal aid lawyers are dedicated people. However, most of them work as sole practitioners and are responsible for their own overhead costs. The rate of \$92.00 per hour paid to lawyers with more than ten years of experience for legal aid work is much lower than the average rates billed in the private sector. At current tariff rates, private bar lawyers are effectively subsidizing public legal aid services in Ontario.

Ontario’s changing population

These changes to Ontario’s population will result in increased demand for legal aid services:

- The number of people with mental health issues who come into conflict with the justice system is increasing at a rate of approximately 10% per year.
- The number of tenants facing eviction applications has risen from 55,331 in 1999 to 59,560 in 2003. In 1996, rental units under \$800 per month made up over 65% of the rental market. Now they account for only 20%.

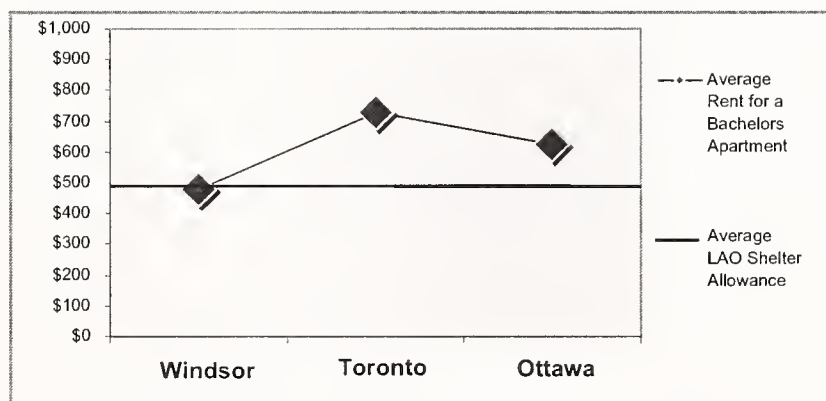
- Almost 32,000 people stayed in homeless shelters in Toronto in 2002 – an increase of 21% from 1990. The number of children in homeless shelters has increased 130% since 1988.
- Poor people are increasingly concentrated not only in downtown Toronto, but in various neighbourhoods outside of the downtown area, according to a recent report published by the United Way.
- There will be an increase of 56% to 111% in the visible minority population between 2001 and 2017. Approximately 45% of all visible minority immigrants will settle in Toronto.
- 34.8% of single-parent women are low-income earners, up from 30.1% in 2001.
- The number of poor children in Toronto increased by 21,800 between 1995 and 2000.
- By 1999 there were 1,436,544 people in Ontario 65 years or older. In 2004 that number had increased by over 10% to 1,580,486. The number of seniors is projected to increase by at least 3% per year for the next 20 years.

The working poor who cannot afford a lawyer

As the cost of living increases and financial eligibility guidelines remain the same, a growing number of people in Ontario cannot afford legal services, but are not eligible for legal aid.

- Legal Aid Ontario's yearly net income waiver level (the maximum amount of net income a family can earn in order to be automatically eligible for legal aid) is lower than Statistics Canada's Low-Income Cut-off for many family sizes.
- The financial eligibility threshold falls below several family categories in Statistics Canada's Low-Income Cut-Off (LICO) – a commonly used measurement of poverty levels. In other words, individuals who are far below generally accepted poverty lines are not eligible for legal aid, based on eligibility criteria that was last changed in 1996, when eligibility levels were *cut* by 22 per cent.

LAO shelter allowances do not reflect rental costs



Legal Aid Ontario's financial eligibility levels, which have traditionally been linked to social assistance levels, are no longer keeping pace. Ontario Works and Ontario Disability Support Program (ODSP) rates will have increased by four per cent in the last two years, while Legal Aid Ontario's rates have not changed.

How Do We Save Money for Justice?

An unsustainable and starved legal aid system results in higher costs elsewhere in the justice and social services sector. Legal Aid Ontario addresses problems at the front end, so that the problems that clients face do not escalate and become more costly.

Justice System Cost Drivers	How a Sustainable Legal Aid System Reduces Costs
It costs at least \$150 per day to house a youth in custody.	➤ It costs approximately \$80,000 per year to staff one Youth Court Action Planning Project (YCAPP) location. If the 824 youths who had been diverted out of the courts through YCAPP had each spent even three days in custody, this would have cost the government at least \$370,800. YCAPP is therefore one example of an initiative that costs money to run, but ultimately saves the government money.
The average annual cost for a child in the care of a Children's Aid Society (CAS) is \$30,000. Since 1998, the number of children in care has increased by 32%.	➤ A well funded legal aid system means that more parents will be represented, whether in court or mediation, and fewer children will be in care. A successful child protection mediation costs an average of \$870, compared to an average child protection legal aid certificate, which costs \$2,482.
A criminal certificate costs an average of \$1,674.85. It costs an average of \$81,206 per year to keep an offender in a penitentiary.	➤ Accused who are represented are less likely to go to jail – either at the bail hearing or sentencing stage, thereby reducing incarceration costs.
It costs \$100,000 to \$250,000 per year to keep a person with a mental illness in jail. It costs \$34,418 per year, including income support, to keep someone with mental illness in the community.	➤ Services such as duty counsel in Mental Health Court, and lawyers in the Criminal Law Offices who offer specialized services to clients with mental health issues, successfully divert clients out of the court system and into community-based plans.
At least 75% of Aboriginal women have been victims of domestic violence compared with 7% of non-Aboriginal women.	➤ Services like "Talking Together", child protection mediation projects, and specialized services to victims of domestic violence address problems at the front end, reduce court time, and effectively address the needs of clients. Without these services, these people are left to navigate the court system on their own, ultimately causing more financial drain on the system.
Family litigation is exceptionally costly, because of the many procedural requirements and court appearances.	➤ Settlement conferences program cost \$138,651 in 2004-05, but resulted in savings of approximately \$1,637,844. This is yet another example of up-front investment resulting in ultimate cost savings. ➤ Child protection mediation similarly keeps costly family matters out of the courts.

How Do We Move Towards a Healthy Legal Aid?

Funding announced by the Ontario government for the previously implemented tariff increases was badly needed. It will help Legal Aid Ontario to balance its budget this year, despite a growing deficit.

Legal Aid Ontario is also pleased that revenues from one of our other sources of funding, the Law Foundation of Ontario, are increasing this year due to increases in interest rates. This will also help to cover the deficit this year. However, this funding represents less than ten per cent of our revenues (versus 88 % received from the Ontario government) and it fluctuates widely based on interest rates and activity in the real estate market, so Legal Aid Ontario is cautious about relying on temporary increases as an ongoing source of funding for legal aid services.

Current funding is inadequate to maintain the current level of service. Legal Aid Ontario is turning away more people than ever before – the number of people refused service has increased by 42 per cent in less than two years.

Immediate pressures on Legal Aid Ontario include the need to address increasing demands for and costs of services. The number of people with family law problems refused legal aid climbed by 26 per cent in just over a year, with over one-third of applicants turned away. Many of these people qualify financially for legal aid services but Legal Aid Ontario is forced to refuse service in order to stay within its current budget.

Legal Aid Ontario also hopes to loosen financial eligibility criteria which were cut by 22 per cent in 1996. With an increase of four per cent for social assistance rates in the last two years, legal aid rates are no longer keeping pace.

A further pressure relates to the long-standing need to develop a mechanism to regularly review the hourly rates paid to lawyers. These rates have seen only two small increases in the past 20 years.

Additional funding will not cover every existing service demand, and will not give us the tools to meet dramatic future increases in demand. However, it will allow Legal Aid Ontario to begin to address some of our highest priority needs and help Ontario's most vulnerable.

We need a justice system that is more accessible to Ontario's poor. We need to respond to their needs when their livelihood, liberty, health and well being are in serious jeopardy. We need to be able to meet present needs and fill existing service gaps, without compromising our ability to meet future needs.

Sustainability is Within Reach

Recently announced funding from the provincial government for tariff increases implemented over three years ago will prevent the operating deficit from growing ever larger. However, without an increase to its base funding on a year to year basis, Legal Aid Ontario will continue to face uncertainty. In a financial shortfall, our civil legal aid services would be threatened, since we must provide coverage for certain criminal cases that the government is constitutionally mandated to fund.

The number of unrepresented accused and family litigants would increase exponentially under such a scenario. The existing number of unrepresented parties in the court system has been highlighted by Supreme Court of Canada Chief Justice Beverley McLachlin as an issue of national concern.

Sustainable funding will ultimately save money in other areas of the justice system, and in social services, and at the same time will ensure access to justice for low-income Ontarians who desperately need legal aid services.

Like other legal aid plans across the country, Legal Aid Ontario is at a critical juncture. The growing needs are no longer quietly growing but attracting comment and concern. Yet, sustainable legal aid systems across the country are within reach with an effective federal and provincial partnership, which includes both funding in the area of criminal law supporting continued innovation and new funding to support civil legal aid services.

